CITY OF PHILADELPHIA

WATER DEPARTMENT
ARA Tower at Reading Center
Philadelphia, Pa 19107-2994

JOHN PLONSKI
WATER COMMISSIONER

June 12, 1991

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EPA, R3. WATER MANAGEMENT DIVISION
MUNICIPAL WASTEWATER CONSTRUCTION BRANCH

Nicholas F. Catania
Executive Director
Delaware County Regional Water
Quality Control Authority
P.O. Box 999
100 East Fifth Street
Chester, PA 19016

Re: Notice of Intent to Terminate March 15, 1974 Agreement Providing Wastewater Treatment Services to Delcora

Dear Mr. Catania:

Pursuant to Section 9.05 of the Agreement between the City and Delcora, the City hereby serves Delcora notice that it intends to terminate the Agreement as well as all wastewater treatment services upon the expiration of the existing contract, March 15, 2004.

While the Agreement states that written notice may be served at any time after March 15, 1999, we felt that giving you only five years advance notice would be insufficient time for Delcora to design, finance and build its own wastewater treatment plant. Therefore, we are providing you with this notice so you will have sufficient time to make the necessary arrangements. Notice will again be sent to you on March 15, 1999, as contemplated in the Agreement.

The City has been attempting for over two and a half years to settle the existing capital contributions dispute. During this period, the City has done everything conceivable to reach a fair settlement of this matter. It is now painfully obvious that Delcora seeks only to avoid paying its fair share for the Southwest plant at the expense of Philadelphia ratepayers and our other suburban customers. Although I'm sure you are well aware of why we are taking this action, allow me to briefly summarize Delcora's conduct which led to our decision.

As you know, through 1988, the City was basing Delcora's quarterly capital bills on the assumption that federal construction grants would reimburse us for 75% of all City capital expenditures for the Southwest plant. We were therefore not charging Delcora for City expenditures for which federal grant money was anticipated but not yet received. By doing so the City was, in effect, providing Delcora with an interest free loan.

In January 1989, we informed Delcora that this practice could not continue for two reasons. First, the City could no longer expect a 75% federal contribution. The federal construction grants program was being terminated and there were insufficient funds remaining in the program to reimburse the City for its capital expenditures. Second, it was absolutely inappropriate for the City's ratepayers and our other suburban customers to subsidize Delcora in such a manner.

Since these basic facts were not in dispute, we had hoped that Delcora would act as a fair and responsible partner. We were wrong. Delcora actions sought only to deny and delay payment of its fair share of the capital costs.

Delcora's first reaction to our change in capital billing was to withhold all capital contribution payments, <u>even those payments which Delcora admitted it owed to the City,</u> for over two years. To this day, Delcora maintains it is entitled to be subsidized by our ratepayers and our other suburban customers. Your agency continues to insist that it should be given a full 75% credit for federal reimbursement, even though it is well aware of the facts regarding the federal grants program.

Now, in addition to refusing to pay its fair share of capital costs, Delcora has refused to pay the increased wastewater treatment rates. Rather than raise any objections to these rates when they were presented back in June 1990, Delcora continued its policy of deny and delay.

The first bill under the new rates was sent out on January 31, 1991. Delcora refused to pay this bill at the new rates and informed us in late February that the new rates would not be paid since it now had questions regarding these rates. Delcora could have easily raised and had answered all its questions prior to January 31, 1991, but chose not to do so.

Thus, despite the City's best efforts at reason and compromise, Delcora continues to act irresponsibly and without regard for other members of the ratepaying community. This conduct will no longer be tolerated. I have instructed our attorneys to file suit against Delcora for its failure to pay its wastewater treatment rates and to continue to vigorously prosecute our demand for arbitration of the capital issue in the Superior Court.

Further, Delcora's actions leave the city no other choice but to terminate any future business dealings. When this agreement expires on March 15, 2004, Delcora's connection to our wastewater treatment plant will be severed. Guide your future actions accordingly. As this matter has serious financial and environmental consequences for Delcora's entire eastern service region, I am copying all affected parties with this notice.

Sincerely,

RONALD L. COY
Deputy Commissioner

RLC:bs

cc: William Bulman
U.S. EPA Region III

Charles Fogg
Philadelphia Coordinator
U.S. EPA Region III

Ronald Furlan
PADER - SE Regional Office

Stuart Gansell
PA DER

Gerald M. Hansler,
Executive Director, D.R.B.C.

Honorable Mary A. Natale
Mayor, Clifton Heights Boro

Honorable Edward P. Guy
Mayor, Boro of Ridley Park

Honorable Steven J. Beckson
Mayor, Folcroft Boro

Honorable Donald McKinney
Mayor, Rutledge Boro

Anne Howanski
Township Manager, Ridley Township

Jane Billings
Manager, Swarthmore Boro

Honorable Edward G. Roth
Mayor, Glenolden Boro

Honorable Frank C. Kelly
Mayor, Collingdale Boro

Honorable Donald A. Cook
Mayor, Prospect Park Boro

Honorable Thomas Kilian
Mayor, Colwyn Boro

Honorable Charles F. Sanders
Mayor, Darby Boro

cc: Honorable Carmen A. Cavacini
Mayor, Sharon Hill Boro

June A. Rodgers
Chief Executive Officer, Norwood Boro

Edward Shew
Chairman of the Board
R-H-M Sewer Authority

Michael LeFevre
Manager, Springfield Township

Honorable James J. Ward,
Mayor, Upper Darby Township

Honorable Jack Edmundson
Mayor of Aldan Boro

Honorable John J. Rankin, Jr.
Mayor, Lansdowne Boro

Gary Cummings
Township Manager, Nether Providence Township

Lawrence Patterson
President of the Board, Darby Township

John R. Longacre, II
President of the Board of Commissioners
Darby Township

Honorable James Mollan
Mayor, Yeadon Boro

Richard E. Hunt
Chairman of the Board
Central Delaware County Authority

Honorable Gerald Connolly
Mayor, Morton Boro